Supreme Court E-Library

With respect to the question as to what was the actual cost of the raw materials imported in 1959 by ITEMCOP and used by it in the manufacture of jute bags sold in the same year, for the purpose of determining its sales tax liability, suffice it to say that the issue is one of fact and the finding thereon of the CTA, not having been shown to be unsupported by substantial evidence, must be left undisturbed.

Accordingly, in G.R. No. L-27718, the appealed decision is modified by allowing the deduction from petitioner's 1959 gross sales of the cost of raw materials imported by it tax-free in 1958 and used in the manufacture of jute bags which were sold in 1959; and in G.R. No. L-27768, the petition is dismissed.

SO ORDERED.

Teehankee (Chairman), *Melencio-Herrera*, *Relova*, *Gutierrez, Jr.*, *De la Fuente*, and *Alampay*, *JJ.*, concur.

SECOND DIVISION

[G.R. No. L-39388. May 27, 1985]

RAYMUNDO ERFE, *petitioner, vs.* **HON. WILHELMO C. FORTUN, as Presiding Judge of the Court of First Instance of Branch VIII, Third Judicial District, Dagupan City, ANGELES L. LEONOR, FLORENTINA L. BIACAN represented by ENCARNACION A. LAYGO, as their Attorney-in-Fact,** *respondents*.

Supreme Court E-Library

SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; ACTIONS; REFERRAL OF CASE TO THE MINISTRY OF AGRARIAN REFORM WHERE TENANCY WAS THE ISSUE INVOLVED.**— In denying the petitioner's motion to refer the case to the Ministry of Agrarian Reform, the respondent court violated the express mandate of Section 2 of P.D. 316, to wit: "Sec. 2 — Unless certified by the Secretary of Agrarian Reforms as a proper case for trial or hearing by a court or judge or other officer of competent jurisdiction, no judge of the Court of Agrarian Relations, Court of First Instance, municipal or city court, or any other tribunal or fiscal shall take cognizance of any ejectment case or any other case designed to harass or remove a tenant of an agricultural land primarily devoted to rice and corn, and if any such cases are filed these cases shall first be referred to the Secretary of Agrarian Reform or his authorized representative in the locality for a preliminary determination of the relationship between the contending parties. If the Secretary of Agrarian Reform finds that the case is a proper case for the Court or judge or other hearing officer to hear, he shall so certify and such court, judge or other hearing officer may assume jurisdiction over the dispute or controversy."

2. **ID.; ID.; ID.; ID.; RENDITION OF JUDGMENT BY COURT DOES NOT JUSTIFY DENIAL OF REFERRAL SOUGHT.**— The fact that a decision had already been rendered by the respondent court does not justify denial of the referral sought. Under Memorandum Circular No. 29 issued by the Minister of Agrarian Reform on December 6, 1973 to implement P.D. 316, referral to the Ministry of Agrarian Reform after judgment is still mandatory where the execution of the decision would result in the ejectment of the actual tiller or the tenant farmer.

APPEARANCES OF COUNSEL

Vicente Hidalgo for petitioner.

Rolando Cabrera for private respondents.

Supreme Court E-Library

RESOLUTION

ESCOLIN, *J.*:

This is a petition for *certiorari* to set aside the order of the respondent Court of First Instance of Pangasinan, which denied the motion of petitioner Raymundo Erfe, the defendant in Civil Case No. D-2910, to refer the case to the Ministry of Agrarian Reform for preliminary determination of the relationship between the contending parties in said case.

Private respondent Angeles L. Leonor and Florentina L. Biacad, through their mother and attorney-in-fact, Encarnacion A. Laygo, filed a complaint against Raymundo Erfe to recover the ownership and possession of three [3] parcels of ricelands with a total area of about one [1] hectare, situated in Bo. Anonang, San Fabian, Pangasinan. The case was docketed as Civil Case No. D-2910 of the then Court of First Instance of Pangasinan, and assigned to Branch VIII of said court, then presided by Judge Sixto Domondon. The complaint substantially alleged that plaintiffs purchased said lands from their mother Encarnacion A. Laygo, who prior to the sale had possessed the same continuously and openly for a period of over ten [10] years; that Raymundo Erfe, asserting ownership over said lands, entered the same and refused to surrender possession thereof despite the plaintiffs' repeated demands.

In his answer, Erfe averred that he was not claiming any right of dominion over the disputed properties. He alleged, however, that he has occupied and cultivated said lands continuously for a period of over ten [10] years as share tenant of Encarnacion A. Laygo, the former owner thereof. Thus, Erfe would have his security of tenure as agricultural tenant recognized and upheld by the court.

The court *a quo*, after due hearing, rendered a decision "declaring the plaintiffs the real owners and lawful possessors of the properties described in the complaint and [ordering] the defendant to vacate the premises and surrender the possession of the properties of the herein plaintiffs. xxx"

Supreme Court E-Library

On November 22, 1973, petitioners filed a motion for reconsideration, praying, among other things, that the case be referred to the Department [now Ministry] of Agrarian Reform, pursuant to Section 2 of Presidential Decree No. 316. On January 31, 1974, Erfe filed a second motion reiterating his plea for referral of the case.

Judge Domondon denied the motion for reconsideration by declaring "that Erfe was in estoppel and that the case was outside the purview of PD 316." Judge Domondon was later promoted to the Court of Appeals, and Judge Willelmo C. Fortun was assigned to preside over the sala vacated by him. A motion for the issuance of a writ of execution was filed by private respondents, and on June 14, 1974 Judge Fortun granted said motion over the objection of petitioner. The subsequent motion to set aside the decision and to stay execution was denied.

Hence, the instant recourse to annul the aforementioned orders of the court. This Court issued a temporary restraining order enjoining respondents from enforcing the writ of execution.

We grant the petition for *certiorari*. In denying the petitioner's motion to refer the case to the Ministry of Agrarian Reform, the respondent court violated the express mandate of Section 2 of PD 316, to wit:

> "Sec. 2.— Unless certified by the Secretary of Agrarian Reforms as a proper case for trial or hearing by a court or judge or other officer of competent jurisdiction, no judge of the Court of Agrarian Relations, Court of First Instance, municipal or city court, or any other tribunal or fiscal shall take cognizance of any ejectment case or any other case designed to harass or remove a tenant of an agricultural land primarily devoted to rice and corn, and if any such cases are filed these cases shall first be referred to the Secretary of Agrarian Reform or his authorized representative in the locality for a preliminary determination of the relationship between the contending parties. If the Secretary of Agrarian Reform finds that the case is a proper case for the Court or judge or other hearing officer to hear, he shall so certify and such court, judge or other hearing officer may assume jurisdiction

Supreme Court E-Library

over the dispute or controversy."

The fact that a decision had already been rendered by the respondent court does not justify denial of the referral sought. Under Memorandum Circular No. 29 issued by the Minister of Agrarian Reform on December 6, 1973 to implement P.D. 316, referral to the Ministry of Agrarian Reform after judgment is still mandatory where the execution of the decision would result in the ejectment of the actual tiller or the tenant farmer. Thus:

"II. *When Referral Shall Be Made*

2. With respect to agrarian or civil cases submitted for decision or pending execution — before decision is rendered or before execution of decision where such decision or execution would result in the ejectment of the actual tiller or the tenant farmer in order to determine whether the defendant has become a beneficiary or a recipient of a Land Transfer Certificate pursuant to Presidential Decree No. 27;"

WHEREFORE, the respondent court's order denying petitioner's motion for referral as well as the order dated June 14, 1974 granting the writ of execution are hereby set aside. The lower court is directed to refer Civil Case No. 2910 to the Ministry of Agrarian Reform.

SO ORDERED.

Makasiar (Chairman), *Aquino*, *Abad Santos*, and *Cuevas*, *JJ.*, concur.

Concepcion Jr., *J.*, on leave.